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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,667	05/25/2000	Mark Cirinna	COMP:0086/FLE P00-3227	7191

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Michael G Fletcher  
Fletcher Yoder & Van Someren  
P O Box 692289  
Houston, TX 77269-2289

[REDACTED] EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/578,667</b>	Applicant(s) <b>Cirinna et al</b>
	Examiner <b>Steven McAllister</b>	Art Unit <b>3627</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1)  Responsive to communication(s) filed on Mar 28, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

4)  Claim(s) 1-43 is/are pending in the application.

4a) Of the above, claim(s) 1-8 and 23-30 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 9-22 and 31-43 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election with traverse of Group II in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the restriction of Group I from Group IV is improper since no different classification was shown. This is not found persuasive because the methods of Groups I and IV have a separate subject of inventive effort and separate status in the art. Group I is directed toward gathering information and building a web site and Group IV is directed to using a web site. Additionally, it is noted that no arguments were put forward suggesting that the restriction of the elected group was improper.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-8 and 23-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

### ***Claim Rejections - 35 USC § 112***

3. Claims 20 and 31-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As to claim 20, while it is recognized that an overall computing environment can be provided via a distributed network of software, the wording of the claim is unclear. It is recommended to provide some modifier for “computer programs” to differentiate them from “the computer program”.

Claim 31 is indefinite because it is not clear whether “purchasing and non-purchasing-related job-function information” means “purchasing information and non-purchasing-related job-function information” or “purchasing -related job-function information and non-purchasing-related job-function information”. In examining the claims, it was read to be the former.

***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 9, 10, 12, 14, 19, 20, 22, 31-36 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by the Earthlink website.

Earthlink inherently shows an electronic information system comprising a computer to produce a website since such a system is required to provide the Earthlink web site. It further shows information relating to a plurality of job-function related topics (see the job function descriptions) and information relating to purchasing goods or services (for instance the Sprint hyperlink and the hyperlink under “Marketplace”). This information can be used by anyone

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accessing the site, including earthlink employees. For instance, an employee could buy a book to help with his job function.

As to claim 12, it is inherent that Earthlink shows a computer network and a computer program stored on the computer network since both elements are necessary to provide the web site.

As to claims 14 and 32, Earthlink shows that the website is accessible via the internet since it is an internet web page.

As to claim 19, it is noted that Earthlink is linked to a second information system (that of Sprint) via a second website.

As to claim 20, it is noted that Earthlink shows a plurality of programs comprising the software supporting, for example, the Earthlink site and the Sprint site, these sites and software being linked together.

As to claim 22, Earthlink provides information and provides for ordering products as previously noted. It is further noted that since anyone can get this information and order these services, the system is configured so that employees in specific occupational groups can receive the information and order services as well.

As to claims 23 and 25, it is noted that the templates of Earthlink are configurable to provide selected information, products or services via a website accessible via the internet.

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As to claim 33, a portion of the website comprising the Jobs @ earthlink section is configured topically by job function (see printout of “Technical/Customer Service” job description information, for instance).

As to claim 34, it is noted that the website of Earthlink is adaptable for each employee (each user in fact) that accesses the website.

As to claim 35, the website is provided to users, including customers, by a first business -  
- Earthlink.

As to claim 36, it is linked to a website operated by a second business, Sprint.

As to claim 41, it is noted that it is inherent that the company that runs the website may select what information, goods, or services are displayed on the website, since they have control over that website.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 11, 16, 17, 21, 37, 38, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Earthlink website.

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As to claim 11, Earthlink shows all elements of the claim except a plurality of terminals that provide access to the website for a plurality of the business's employees. However, it is notoriously old and well known in the art for a plurality of employees of a large internet company such as Earthlink to have a plurality of terminals comprising PCS which access the internet and therefore the website. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Earthlink by providing such terminals in order to provide general internet access.

As to claims 16 and 17, Earthlink shows all elements of the claim except identifying the user and tracking his use. However, it is notoriously old and well known in the art to identify and track a user (including an user who is an employee) by his internet node. It would have been obvious to one of ordinary skill in the art to modify the system of Earthlink by providing for such identification and tracking in order to provide more effective marketing information to the user.

As to claims 21 and 37, Earthlink shows all elements of the claim except closed links. Tobin shows such links. It would have been obvious to one of ordinary skill in the art to do so in order to maintain a consistent and familiar environment for the user while shopping at a partner site, such as Sprint.

As to claim 38, Earthlink shows all elements of the claim except electronically receiving compensation from a business to which it refers business. Horstmann show this element. It would have been obvious to one of ordinary skill in the art to modify the system of Earthlink in order to increase revenue.

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As to claim 42, Earthlink shows all elements of the claim except computer software being a good offered and stored on the computer. However, to offer computer software stored on a computer over the internet is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Earthlink by including software as a product in order to increase the range of products offered and increase sales.

As to claim 43, Earthlink shows all elements of the claim except computer software being a good offered and stored on a second website. However, to link to a website offering software is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Earthlink by including a link to a second site offering software in order to increase traffic through the website and get referral fees from the second website.

8. Claims 9-22, 31-37, and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over King, Jr. et al (5,319,542) in view of Gardner et al (5,758,327) and Earthlink.

King, Jr. et al show all elements of the claim except using a website to present the products or services for ordering and providing information comprising a plurality of job-function related topics. Gardner et al show a website interface. It would have been obvious to one of ordinary skill in the art to modify the system of King et al by using a web interface in order to take advantage of existing infrastructure and to reduce training costs for learning a custom interface. Earthlink shows providing open job listings which have job-function related topics. It would have been obvious to one of ordinary skill in the art to further modify the system

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of King, Jr. et al by providing job listings in order to facilitate efficient allocation of talent within the company and in order to minimize paperwork.

As to claim 11, King et al in view of Gardner et al and Earthlink show a plurality of access terminals for the employees.

As to claims 14 and 32, King et al in view of Gardner et al and Earthlink show access to a website via the internet.

As to claim 15, King et al in view of Gardner et al and Earthlink show routing the employee's order.

As to claim 17, King et al in view of Gardner et al and Earthlink show all elements of the claim except tracking the employee's use of the website. However, it is notoriously old and well known to track employee's computer use. It would be obvious to one of ordinary skill in the art to do so in order to track employee time.

As to claim 18, King et al in view of Gardner et al and Earthlink show all elements of the claim except selecting specific a job-function related topic based on the employee's past use. However, it is notoriously old and well known for a such as system to display information based on past use of the system. Since the system of King et al in view of Gardner et al and Earthlink provide a information only related to the job-function of the employee (purchasing for the job or job listings within the company), it is inherent that the information selected by the computer would be a job-function related topic. It would be obvious to one of ordinary skill in the art to do provide often used information to the employee quickly.

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As to claim 22, King et al in view of Gardner et al and Earthlink show a system configured for use by employees in specific occupational groups.

As to claim 33, King et al in view of Gardner et al and Earthlink show all elements of the claim including organizing a portion of the website by employee job function (the job listings).

As to claim 34, as broadly claimed, the website is adaptable for each user.

As to claims 42, King et al in view of Gardner et al and Earthlink show private catalog software on the computer.

As to claim 43, King et al in view of Gardner et al and Earthlink show computer software accessed from a second site comprising the public catalog. It does not show the public catalog having a web interface. However, it is notoriously old and well known in the art to provide such an interface for electronically purchasing from a catalog. It would have been obvious to one of ordinary skill in the art to modify the apparatus of King et al by using a web interface in order to provide a familiar and efficient interface to the public catalog.

#### *Response to Arguments*

9. Applicant's arguments with respect to the 103 rejection of claims 9-22, 31-36, and 39-43 using King et al in view of Gardner et al have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's arguments filed 3/28/03 have been fully considered but they are not persuasive.

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Regarding the 102 Earthlink rejection, first the applicant argues that the printout is not a valid reference because there is no reference of date of publication. It is noted that the web page submitted was arched by the “Wayback Machine” ([www.archive.org](http://www.archive.org)) on 4/27/1999.

Regarding the same rejection, the Applicant further argues that the website does not show “information comprising a plurality of job-function related topics”. As amplified by the additional pages of the website printed out and provided, the list of available jobs and job descriptions anticipates this element. Regarding the “electronic informaiton system” further comprising a “computer” (as applied to claim 31), as stated above, such a system is inherent in the reference because a web page cannot exist without such a system. Regarding the argument that the website is directed toward customers and not employees, it is noted that this is intended use of the system. Further, it is noted that an employee can access the website via the internet since an employee can be a customer as well. It is further noted that it is not required that someone be a customer of Earthlink to access the referenced website.

### *Conclusion*

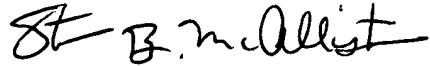
11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.

  
Steven B. McAllister

June 16, 2003